

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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| In the Matter of |) | |
| |) | |
| Telephone Number Portability |) | CC Docket No. 95-116 |
| Cost Classification Proceeding |) | RM 8535 |

**COMMENTS IN SUPPORT OF
APPLICATIONS FOR REVIEW**

The United States Telephone Association (USTA) hereby files its comments in support of the Applications for Review filed by Bell Atlantic, Cincinnati Bell Telephone Company, and US WEST Communications, Inc., and the Petition for Clarification or Review filed by Ameritech (collectively referred to as "the Applications") seeking relief from the Common Carrier Bureau's Memorandum Opinion and Order in the above-captioned proceeding (Order).¹ USTA is the principal trade association of the local exchange carrier (LEC) industry. Its members provide over 95 percent of the exchange carrier-provided access lines in the United States and they are directly affected by the Bureau's Order in this proceeding. USTA has been an active participant in all phases of implementing telephone number portability.

Section 251(e)(2) of the Communications Act of 1934, as amended, (the Act)²

¹DA 98-2534, released December 14, 1998.

²47 U.S.C. §251(e)(2).

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provides that the “costs of ...establishing number portability shall be borne by all telecommunications carriers on a competitively neutral basis.” In its Third Report and Order in the above-captioned proceeding,³ the Commission addressed the recovery of the incremental portion of joint costs of equipment, facilities and software required by the LECs to adapt their existing systems and upgrade networks to provide long-term number portability (LNP). In that Order, the Commission specifically determined that LECs could recover that portion of switch, operations support system (OSS), Signaling System 7 (SS7), and advanced intelligent network (AIN) upgrade costs “that is demonstrably an incremental cost carriers incur in the provision of long-term number portability.”⁴

The Common Carrier Bureau was directed to “determine appropriate methods of apportioning joint costs....”⁵ As expressed by the Petitioners, USTA is concerned that several portions of the Bureau’s Order could be construed to not adequately allow for the recovery of that incremental portion of the LECs’ joint costs of equipment, facilities and software required to provide LNP. The Bureau’s Order provides that a carrier must first demonstrate that it would not ordinarily have incurred joint costs of adapting systems or upgrading networks for LNP but for its LNP obligation, and then identify those portions of such costs that directly support the provision of LNP functions. This seems to limit recovery by the LECs to merely that portion of their expenses that relate to hardware and

³13 FCC Rcd 11701 (1998).

⁴*Id.* at 11740.

⁵*Id.*

software reflecting the cost of engineering LNP functionality.⁶ Such a determination cannot prevail. It is inconsistent with the provisions of the Act concerning LNP and the Commission's Third Report and Order. Furthermore, it would result in a significant amount of LEC costs caused by LNP upgrades to be ineligible for recovery through the LNP mechanism provided for by the Commission. The Bureau stated that the LECs should try to recover such ineligible costs through access charges and possibly state recovery mechanisms.⁷ However, the Commission has precluded LECs from recovering such costs through access charges or shifting them to the state jurisdiction.

The Commission must clarify that LECs may recover the incremental portion of joint costs of equipment, facilities and software required to provide LNP. Specific concerns relate to OSS modifications, systems for providing repair and maintenance services, 911 services, service ordering, and other network functions. The Petitioners have made a compelling case why each of these costs must be considered as legitimate recoverable LNP costs.⁸ Furthermore, LECs across the country have incurred significant costs so that they can provide LNP for which they are entitled to recover under the Act.

USTA further requests that the Commission expeditiously consider the pending Applications for Review. Carriers may recover LNP costs through an end-user surcharge

⁶Order at ¶¶ 22-24.

⁷Order at ¶¶ 6, 9.

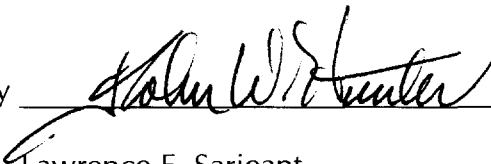
⁸See Bell Atlantic Application for Review at 2-5, Declaration of Robert W. Crandall; Ameritech Petition for Clarification or Review at 6-11; Cincinnati Bell Application for Review at 3-7; and US WEST Application for Review at 8-11.

for a five year period. Many LECs are filing LNP cost recovery tariffs at the present time. This critical issue must be resolved so that the carriers and the Commission can adequately consider the content of such tariff filings. The carriers need to have certainty in this matter.

USTA urges the Commission to favorably consider those applications filed by the petitioners and to act to assure full recovery of costs to implement number portability incurred by the local exchange carriers.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

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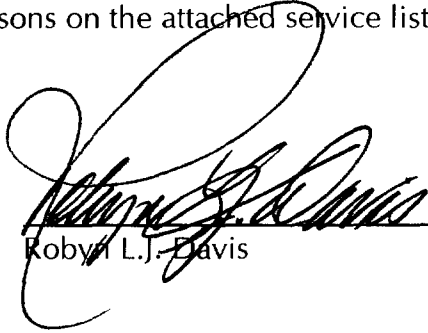
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I, Robyn L.J. Davis, do certify that on January 28, 1999 copies of the Comments of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.



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